

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 21, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

DENNIS SHELDON BREWER,

Plaintiff,

v.

WILLIAM BURNS, CHRISTOPHER
WRAY, MERRICK GARLAND,
RONALD DAVIS, AVRIL HAINES,
LLOYD AUSTIN, CHRISTINE
WORMUTH, DR. STEFANIE
TOMPKINS, ALEJANDRO
MAYORKAS, KIMBERLY
CHEATLE, XAVIER BECERRA,
JEANNE MARRAZZO, COLLEEN
SHOGAN, ERIC ADAMS, EDWARD
CABAN, PATRICK CALLAHAN,
JOHN BILlich, CHRISTOPHER
TRUCILLO, ANTHONY CURETON,
JAMES TODESCO, JENNIFER
POKORSKI, PAUL PENZONE, KING
COUNTY SHERIFF'S
DEPARTMENT, WASHINGTON
STATE UNIVERSITY, FEDERAL
WAY SCHOOL DISTRICT,
ESTABLISH INC., ACME MARKETS
INC., DANIEL WEINER, WALMART
INC., WALMART (CHINA)

No. 2:24-CV-00149MKD

ORDER DISMISSING ACTION;
DENYING PLAINTIFF'S
MOTION FOR CERTIFICATION
OF CLASS AND CONSTRUED
MOTION TO APPOINT
COUNSEL; DENYING
PLAINTIFF'S MOTION FOR
ELECTRONIC ACCESS; AND
DENYING PLAINTIFF'S
MOTION TO EFFECT SERVICE

ECF Nos. 1, 3, 4, 7

INVESTMENT CO., LTD., COSTCO
WHOLESALE CORPORATION, THE
KROGER CO., PPG INDUSTRIES
INC., INSIGHT NETWORK SPAIN,
TECHNOLOGY SALES LEADS, INC.,
LOEB & LOEB, LLP, RAYMOND
SULLIVAN, LLC, tRADEKEY.COM,
WEBLINK IN PVT., LTD., VISHAL
PATEL, MICHAEL SCIARRA, LUIS
m. ASTUDILLO, MATCH GROUP,
INC., BUMBLE INC., WILLIAM
BURNS, STEPHEN BREYER,
ANDREW WEISSMAN, CHARLES
ROSENBERG, ROBERT MUELLER,
LESLIE CALDWELL, ANTHONY
FAUCI, ROGER STONE, LISA
RUBIN, ALEXANDER VINDMAN,
ARI MELBER, JOSEPH ARPAIO,
DAVID REICHERT, NEAL KATYAL,
THOMAS KEENE, STEPHANIE
CLIFFORD, NORELLE DEAN, MARC
CHALOM, OTHER UNKNOWN
GOVERNMENT OFFICERS,
AGENTS, AND EMPLOYEES, and
JOHN DOES (UNKNOWN NUMBER),

Defendants.

Before the Court is Plaintiff's *pro se* Complaint, ECF No. 1, Plaintiff's
"Motion and Proposed Order – Certification of Class," ECF No. 3, Plaintiff's
Motion for Electronic Case Filing Authorization, ECF No. 4, and Plaintiff's
Motion to Effect Service of Instant Complaint, ECF No. 7. The Court has
reviewed the record and is fully informed. For the reasons discussed herein, the

1 Court dismisses Plaintiff's Complaint, ECF No. 1, and dismisses the other motions,
2 ECF Nos. 3, 4, 7, as moot.

3 BACKGROUND

4 Plaintiff filed this *pro se* Complaint on May 6, 2024. ECF No. 1. Plaintiff's
5 Complaint, and accompanying documents, total to 1,1371 pages. Plaintiff alleges
6 numerous claims, including violation of his First, Third, Fourth, Fifth, Eighth,
7 Ninth, Thirteenth, and Fourteenth Amendment rights, violation of 18 U.S.C. §§
8 175, 178(2), 241-421385, 1581, 1584, 1589, 1961-68, 2331, 2340A, 5 U.S.C. §
9 301, and racketeering, among others. *Id.* at 19-20, 95, 190-92.

10 Plaintiff has filed similar complaints in the District of Columbia and
11 Southern District of New York. ECF No. 1-1; *See Brewer v. Wray*, No. 22-cv-996
12 (UNA), 2022 WL 1597610, *aff'd*, No. 22-5158, 2022 WL 4349776 (D.C. Cir. Sept.
13 20, 2022); *Brewer v. Wray*, No. 1:22-cv-00116 (UNA), 2022 WL 226879 (D.D.C.
14 Jan. 24, 2022); *Brewer v. Wray*, No. 21-cv-03218 (UNA), 2022 WL 160269
15 (D.D.C. Jan. 18, 2022); *Brewer v. Wray*, 22-cv-592 (UNA) (D.D.C. Apr. 7, 2022);
16 *Brewer v. Wray*, 22-cv-365 (UNA) (D.D.C. Feb. 23, 2022); *Brewer v. Wray*, 21-
17 cv-2954 UNA) (D.D.C. Nov. 16, 2021); *Brewer v. Wray*, 21-cv-2671 (UNA)
18 (D.D.C. Oct. 15, 2021); *Brewer v. Burns*, No. 23-CV-9605 (LTS), 2023 WL
19 8355914 (S.D.N.Y. Dec. 1, 2023), *motion for relief from judgment denied*, No. 23-
20 CV-9605 (LTS), 2023 WL 8603083 (S.D.N.Y. Dec. 11, 2023). Plaintiff's prior

1 complaints alleged numerous claims against many defendants regarding a history
2 of fraudulent concealment by the United States of illegal operations, and Plaintiff
3 claimed he was bringing a class action in which he was the lead plaintiff. *See, e.g.,*
4 *Brewer*, 2023 WL 8355914 at *1. Plaintiff has presented thousands of pages in the
5 other cases and filed boxes of documents as amended complaints. *Id.*

6 By separate Order, the Court has granted Plaintiff leave to proceed *in forma*
7 *pauperis*. ECF No. 6.

8 LEGAL STANDARD

9 When an individual seeks to proceed in forma pauperis, the Court is required
10 to review the complaint and dismiss such complaint, or portions of the complaint,
11 if it “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be
12 granted; or (iii) seeks monetary relief against a defendant who is immune from
13 such relief.” 28 U.S.C. § 1915(e)(2)(B); *Wong v. Bell*, 642 F.2d 359, 361-62 (9th
14 Cir. 1981). A plaintiff’s claim is frivolous “when the facts alleged rise to the level
15 of the irrational or the wholly incredible, whether or not there are judicially
16 noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25,
17 32-33 (1992).

18 A claim is legally frivolous when it lacks an arguable basis either in law or
19 in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989), *superseded by statute on*
20 *other grounds as stated in Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000)

(en banc); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir. 1984). Therefore, the Court may dismiss a claim as frivolous where it is “based on an indisputably meritless legal theory” or where the “factual contentions are clearly baseless.” *Neitzke*, 490 U.S. at 327. The critical inquiry is whether a constitutional claim has an arguable basis in law and fact. *See Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989), *superseded by statute on other grounds*, *Lopez*, 203 F.3d at 1130-31; *Franklin*, 745 F.2d at 1227.

The facts alleged in a complaint are to be taken as true and must “plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Mere legal conclusions “are not entitled to the assumption of truth.” *Id.* The complaint must contain more than “a formulaic recitation of the elements of a cause of action.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The complaint must plead “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570.

DISCUSSION

A. Criminal Claims

To the extent Plaintiff asserts violations of criminal laws, no private right of action exists to enforce criminal statutes. Federal criminal claims may not be brought by anyone other than the United States. *See, e.g., United States v. Nixon*, 418 U.S. 683, 693 (1974) (noting that the executive branch has exclusive authority

1 to decide whether to prosecute a case). As a civil claim for damages is not the
2 proper mechanism to allege criminal conduct, Plaintiff's criminal claims fail to
3 state a claim.

4 **B. Frivolous Claims**

5 Plaintiff alleges numerous other claims; however, the Court cannot decipher
6 the basis for the claims. As Plaintiff has been informed in his prior cases, courts
7 cannot exercise subject matter jurisdiction over frivolous complaints. *See, e.g.,*
8 *Brewer*, No. 22-cv-996 (ECF No. 5). Plaintiff's claims are factually frivolous, as
9 the alleged facts are "clearly baseless." *See Neitzke*, 490 U.S. at 327. Frivolous
10 claims include those that are "fanciful," "fantastic," and "delusional," as well as
11 those that are "irrational" or "wholly incredible." *Id.* at 325-28; *Denton*, 504 U.S.
12 at 33.

13 Plaintiff alleges "defendant UNITED STATES" and "its co-conspirators"
14 fraudulently concealed a pattern of "religion-based cross-generational
15 discrimination" and other acts, violations, and injuries "against constitutional
16 rights." ECF No. 1 at 37. The actions were allegedly taken against a "Quaker-
17 based order of conscientious objectors" and their children. *Id.* Plaintiff contends
18 Defendants engaged in testing illegal weapons on the unidentified individuals,
19 including using an "illegal bioweapon and bioweapon delivery system." *Id.* at 37,
20 40. Plaintiff alleges "defendant UNITED STATES" subjected Plaintiff to human

1 trafficking when Plaintiff was 12 years old. *Id.* at 37. Plaintiff contends The
2 Department of Defense, Central Intelligence Agency (CIA), Department of Justice,
3 and others, have engaged in a pattern of “racketeering acts against these plaintiffs,”
4 and the Army, CIA, Federal Bureau of Investigation, United States Marshals
5 Service, and others, engaged in violations of civil rights of “this class of US
6 persons.” *Id.* at 38. The details of Plaintiff’s allegations are unclear; the Court
7 cannot discern which defendants committed which alleged actions, what the
8 specific actions are, when the actions took place, nor who the other impacted
9 parties are. Plaintiff’s Complaint discusses alleged events that date back as far as
10 1968. *Id.* at 45.

11 As discussed *supra*, Plaintiff has brought similar actions multiple times in
12 two other courts. Plaintiff’s claims have previously been found frivolous. *See*,
13 *e.g.*, *Brewer*, No. 22-cv-996 (ECF No. 5). Similarly, here, the Court finds
14 Plaintiff’s claims are frivolous. The Complaint largely contains allegations of
15 criminal activity, which fails to state a claim for the reasons discussed *supra*. The
16 allegations related to alleged civil rights violations are “irrational” or “wholly
17 incredible,” and the Complaint fails to allege any meritorious claims that the Court
18 would have jurisdiction over. Thus, the Court must dismiss the case as frivolous.
19 *See Neitzke*, 490 U.S at 325-28.

C. No Opportunity to Amend

Unless it is clear that an amendment would be futile, a *pro se* litigant must be given the opportunity to amend his complaint to correct any deficiencies. *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987), *superseded by statute on other grounds*, 28 U.S.C. § 1915(e)(2), *as stated in Aktar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012). The Court finds it would be futile to allow Plaintiff to amend his complaint. The criminal allegations fail to state a claim, and that deficiency cannot be cured. Plaintiff's remaining claims are frivolous, which also cannot be cured. As discussed *supra*, Plaintiff was given the opportunity to amend in some of his prior cases, and he filed amended complaints totaling thousands of pages. As such, the Complaint is dismissed without leave to amend.

D. Motions

As the Court finds Plaintiff's Complaint is frivolous, Plaintiff's "Motion and Proposed Order- Certification of Class" and construed motion to appoint counsel, ECF No. 3, Motion for Electronic Case Filing Authorization, ECF No. 4, and Motion to Effect Service of Instant Complaint, ECF No. 7, are denied as moot.

1. Motion and Proposed Order- Certification of Class

The Court notes that even if the case was not dismissed, Plaintiff is not able to represent anyone's interest but his own because he is not a lawyer, as he has been previously informed. *See Brewers*, 2023 WL 8603083, at *3;

1 *see* Fed.R.Civ.P. 23(a)(4) (requiring that class representative be able to “fairly and
2 adequately protect the interests of the class”); *McShane v. United States*, 366 F.2d
3 286, 288 (9th Cir.1966) (holding that a lay person lacks authority to appear as an
4 attorney for others). His motion to certify a class would therefore be denied.

5 Plaintiff’s motion for class certification contains a request for appointment
6 of counsel. ECF No. 3. The Court construes the request as a motion for
7 appointment of pro bono counsel. The motion requests appointment of counsel
8 “for the class,” and as such the Court denies the motion as moot, because
9 Plaintiff’s Complaint is dismissed as frivolous and because Plaintiff may not bring
10 a class action as a *pro se* litigant.

11 Even if Plaintiff presented the motion as a motion for appointment of pro
12 bono counsel for himself, rather than for the class, the motion would be denied.
13 This Court can designate counsel under 28 U.S.C. §1915(e)(1) only under
14 exceptional circumstances. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir.
15 2009) (setting forth standard of review and requirement of “exceptional
16 circumstances” for appointment of counsel). Determining whether exceptional
17 circumstances exist requires evaluating “the likelihood of success on the merits”
18 and Plaintiff’s ability “to articulate his claims pro se in light of the complexity of
19 the legal issues involved.” *Id.* (citation omitted). Plaintiff has not demonstrated
20 exceptional circumstances warranting appointment of counsel, and because the

1 claim is frivolous, Plaintiff cannot succeed on the merits. As such, Plaintiff's
2 motion for counsel is denied.

3 **CONCLUSION**

4 For the reasons explained above, the Court dismisses the action and denies
5 Plaintiff's motions as moot.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. This action is **DISMISSED WITH PREJUDICE.**

8 3. All pending motions, **ECF Nos. 3, 4, 7**, are **DENIED as moot.**

9 6. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of
10 this Order would not be taken in good faith and would lack any arguable basis in
11 law or fact.

12 The District Court Executive is directed to file this Order, enter judgment,
13 provide copies to *pro se* Plaintiff, and **CLOSE THE FILE.**

14 DATED May 21, 2024.

15 *s/Mary K. Dimke*
16 MARY K. DIMKE
17 UNITED STATES DISTRICT JUDGE
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